

Remarks

Claims 1-26 are pending.

The Restriction Requirement

The Office Action requires that Applicant makes an election of one of the following groups:

- I. Claims 1-13 and 21-26 drawn to a block copolymer adjuvant and a cationic surfactant and a vaccine formulation comprising the block copolymer adjuvant, a cationic surfactant and a polynucleotide vaccine; and
- II. Claims 14-20 drawn to methods of inducing an immune response in a host by introducing a vaccine formulation.

In order to be fully responsive, Applicant provisionally elects, with traverse, Group I (claims 1-13 and 21-26) to prosecute in the present application without prejudice to prosecution of the subject matter of the non-elected group in subsequent applications.

With respect to the Examiner's division of Groups I and II, Applicant respectfully traverses. Applicant has elected Group I directed to novel adjuvant and vaccine formulations. Unelected Group II is directed to administration of the vaccine formulations of Group I to induce an immune response in a host. Should the Examiner determine that the vaccine formulations are novel, then administration of the novel formulations is also novel. Applicant contends that a search conducted by the Examiner to identify art relating to the vaccine formulations would uncover art pertaining to uses of the formulations as well.

The M.P.E.P § 803 (Eighth Edition, incorporating Revision No. 2, May 2004) states "If the search an examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." Because a search could be crafted that encompasses the subject matter of both Groups I and II, Applicants respectfully request that the Restriction Requirement be modified and the instant claims be examined in one application.

Authorization

No fee is believed to be due. However, the Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to deposit account 13-2755.

Respectfully submitted,

Dated: May 3, 2007

By: 

Melissa B. Wenk

Reg. No. 53,759

Attorney for Applicants

Correspondence Address:

Merck & Co., Inc.

P.O. Box 2000

Rahway, NJ 07065-0907

(732) 594-2756 Telephone

(732) 594-7790 Facsimile